

Application No.: 10/743,720

Docket No.: 2038-319

REMARKS

Applicants appreciate the Examiner's thorough review of the present application, and respectfully request reconsideration in light of the preceding amendments and the following remarks.

Claims 1-20 are pending in the application. Claims 1-9 remain unchanged notwithstanding the art rejections manifested in the Office Action. New claims 10-20 have been added to provide Applicants with the scope of protection to which they are believed entitled. No new matter has been introduced through the foregoing amendments.

The rejections of all original claims as being either anticipated by or obvious over U.S. Patent No. 6,747,185 to *Inoue* is traversed, because the reference as applied by the Examiner does not fairly teach or suggest the following features of independent claim 1.

First, the Examiner improperly reads liquid impervious plastic film 11 of *Inoue* on the claimed water absorbent sheet. See Office Action at page 2, line 9 from bottom, and *Inoue* at column 3, line 13. The Examiner is kindly asked to clarify why the liquid impervious plastic film 11 of *Inoue* is considered water-absorbent and how the reference teaches or suggests such feature.

Second, the Examiner appears to confuse the claimed transmittance, which is a property of the indicator, with the *Inoue* disclosed transmittance, which is a property of the backsheet. The Examiner is kindly asked to clarify how the reference teaches or suggests that the plastic film 11 of *Inoue* has total luminous transmittance of 40% or lower in a dry state. Applicants note that *Inoue* teaches a total luminous transmittance range that is well beyond the claimed range. See, for example, *Inoue* at column 4, line 33 and column 8, line 8.

Third, the Examiner has failed to specify with reasonable clarity why the plastic film 11 of *Inoue* is considered porous as the claimed indicator. The Examiner's reliance on the *Inoue* teaching founded in column 5, line 63 through column 6, line 3 is noted. Applicants have carefully reviewed the cited passage, and still failed to locate any teaching or suggestion of the alleged porousness of the plastic film 11. Clarification is respectfully requested.

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Applicants note the Examiner's argument that the film 11 of *Inoue* inherently possesses the characteristics of the claimed thermoplastic film because the film 11 comprises the same materials as disclosed in the instant application. Applicants respectfully submit that the Examiner's reliance on the theory of inherency is improper, because the common material alone does not necessarily result in common characteristics of the films. A person of ordinary skill in the art would recognize that the configurations of the films can result in different characteristics as well. In this case, the plastic film 11 of *Inoue* is not deemed disclosed or suggested to have the porous configuration of the claimed thermoplastic film. As a result, the plastic film 11 of *Inoue* does not necessarily possess the claimed water-absorbency as well as the claimed change in total luminous transmittance when the thermoplastic film becomes wet. Accordingly, Applicants respectfully submit that the plastic film 11 of *Inoue* does not inherently anticipate the claimed thermoplastic film.

Withdrawal of the art rejections relying on *Inoue* in view of the above is now believed appropriate and therefore respectfully requested.

New claims 10-11 depend from claim 1, and are considered patentable at least for the reasons advanced with respect to claim 1. The dependent claims are also patentable on their own merits since these claims recite other features of the invention neither disclosed, taught nor suggested by the applied art. For example, the applied reference does not appear to fairly teach or suggest the claimed apertures extending through said thermoplastic film as recited in claim 10.

New independent claim 12 is directed to a body fluid absorbent article comprising, among other things, a liquid-impervious backsheet and a water-absorbent, porous, thermoplastic film attached to said backsheet by adhesive. *Inoue*, as applied by the Examiner, includes an article in which the backsheet 11 and thermoplastic film are one and the same. The *Inoue* backsheet 11 cannot be attached to itself by adhesive as presently claimed. Thus, independent claim 12 is patentable over the applied art of record.

Claims 13-17 depend from claim 12, and are considered patentable at least for the reason advanced with respect to claim 12.

New independent claim 18 is directed to an indicator for use in a body fluid absorbent article, said indicator comprising a water-absorbent, porous, thermoplastic film having, among other

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things, apertures extending therethrough and adapted to be filled with bodily fluid for smoothening the rough, light scattering surface and thus increasing the total luminous transmittance of said thermoplastic film. *Inoue* as applied by the Examiner does not appear to teach or suggest such feature. Thus, independent claim 18 is patentable over the applied art of record.

Claims 19-20 depend from claim 18, and are considered patentable at least for the reason advanced with respect to claim 18.


Each of the Examiner's rejections has been traversed. Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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